

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS**

ARK113 DOE,

Plaintiff,

v.

DIOCESE OF BROOKLYN a/k/a
THE ROMAN CATHOLIC
DIOCESE OF BROOKLYN, NEW
YORK; SAINT THOMAS
AQUINAS a/k/a CHURCH OF
SAINT THOMAS AQUINAS; and
DOES 1-5 whose identities are
unknown to Plaintiff,

Defendants.

Index No. _____

SUMMONS**TO THE ABOVE NAMED DEFENDANTS:**

PLEASE TAKE NOTICE THAT YOU ARE HEREBY SUMMONED to answer the Complaint, a copy of which is hereby served upon you, and to serve a copy of your Answer to the Complaint upon the undersigned attorneys listed below within twenty (20) days after the service of this Summons, exclusive of the day of service (or within thirty (30) days after the service is complete if this Summons is not personally delivered to you within the State of New York); and in the case of your failure to appear or answer, judgment by default will be taken against you for the relief demanded herein.

Dated: September 9, 2019
New York, New York

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**COMPLAINT
AND DEMAND
FOR JURY TRIAL**

From approximately the years of 1973 through 1975, Thomas Cullen, a teacher at St. Thomas Aquinas, sexually abused Plaintiff as a child. While the abuse occurred, Defendants were generally negligent, they negligently employed Cullen, and gave him access to children, including Plaintiff. This lawsuit arises out of Plaintiff's significant damages from that sexual abuse, described below. Plaintiff, by and through Plaintiff's attorneys, states and alleges as follows:

PARTIES

A. Plaintiff

1. At all times material to this Complaint, Plaintiff was a parishioners and student at Saint Thomas Aquinas in Brooklyn, New York. At all times material, Plaintiff resided in the State of New York.

2 Plaintiff brings this action under a pseudonym with leave of Court.

B. Defendants

3 Whenever reference is made to any Defendant entity, such reference includes that entity, its parent companies, subsidiaries, affiliates, predecessors, and successors. In addition, whenever reference is made to any act, deed, or transaction of any entity, the allegation means that the entity engaged in the act, deed, or transaction by or through its officers, directors, agents, employees, or representatives while they were actively engaged in the management, direction, control, or transaction of the entity's business or affairs.

4 At all times material, Defendant Diocese of Brooklyn a/k/a The Roman Catholic Diocese of Brooklyn, New York ("Diocese") was and continues to be an organization or entity which includes, but is not limited to, civil corporations, decision making entities, officials, and employees, authorized to conduct business and conducting business in the State of New York with its principal place of business at 310 Prospect Park West, Brooklyn, NY 11215.

5 The Diocese was created in approximately 1853. Later, the Diocese created a corporation called the Roman Catholic Diocese of Brooklyn, New York to conduct some of its affairs. The Diocese operates its affairs as both a corporate entity and as the organization known as the Diocese of Brooklyn. Both of these entities and all other affiliated corporations and entities controlled by the Bishop are included in this Complaint as the "Diocese." The Diocese functions as a business by engaging in numerous revenue producing activities and soliciting money from its members in

exchange for its services.

6. The Diocese has several programs that seek out the participation of children including, but not limited to, schools and other educational programs. The Diocese, through its officials, has complete control over those activities and programs involving children. The Diocese has the power to appoint, train, supervise, monitor, remove, and terminate each and every person working with children within the Diocese.

7. At all times material, Defendant St. Thomas Aquinas a/k/a Church of Saint Thomas Aquinas ("St. Thomas Aquinas") was and continues to be an organization authorized to conduct business and conducting business in the State of New York, with its principal place of business at 1550 Hendrickson Street, Brooklyn, NY 11234. St. Thomas Aquinas includes, but is not limited to, Defendant St. Thomas Aquinas a and any other organizations and/or entities operating under the same or similar name with the same or similar principal place of business.

8. At all times material, St. Thomas Aquinas was and continues to be under the direct authority, control, and province of Defendant Diocese and the Bishop of Defendant Diocese. Defendant St. Thomas Aquinas includes any school affiliated with Defendant St. Thomas Aquinas . At all times material, Defendant St. Thomas Aquinas was under the direct authority, control, and province of Defendant Diocese and the Bishop of Defendant Diocese. At all times material, Defendants St. Thomas Aquinas and Diocese owned, operated, managed, maintained, and controlled St. Thomas Aquinas Parish and School.

9. Defendants Does 1 through 5 are unknown agents whose identities will be

provided when they become known pursuant to C.P.L.R. § 1024.

JURISDICTION

10. This Court has jurisdiction pursuant to C.P.L.R. § 301 as Defendants' principal places of business are in New York and because the unlawful conduct complained of herein occurred in New York.

11. Venue is proper pursuant to C.P.L.R. § 503 in that Kings County is the principal place of business of Defendant Diocese. In addition, many of the events giving rise to this action occurred in Kings County.

FACTUAL ALLEGATIONS

A. Background

12. The hierarchy of the Roman Catholic Church and, by implication these Defendants, have been aware of the serious problem of sexual abuse of children by adults with authority since at least the 1800s.

13. Further, Roman Catholic Church officials, including these Defendants, have used their power and influence to prevent victims and their families from disclosing allegations of abuse.

14. Additionally, Plaintiff's relationship to Defendants and Cullen, as a vulnerable child, parishioner, and student at St. Thomas Aquinas was one in which Plaintiff was subject to the ongoing influence of Defendants and Cullen, Plaintiff's abuser.

B. Specific Allegations

15. At all times material, Cullen was a teacher employed by the Diocese and St. Thomas Aquinas. Cullen remained under the direct supervision, employ, and control of

Defendants.

16. Defendants placed Cullen in positions where he had access to and worked with children as an integral part of his work.

17. Plaintiff attended St. Thomas Aquinas in Brooklyn, in the Diocese. Plaintiff and Plaintiff's family came in contact with Cullen as an agent and representative of Defendants, and at Saint Thomas Aquinas.

18. Plaintiff, as a youth, participated in activities at St. Thomas Aquinas. During and through these activities, Plaintiff, as a minor and vulnerable child, was dependent on Defendants and Cullen. Defendants had custody of Plaintiff and accepted the entrustment of Plaintiff and, therefore, had responsibility for Plaintiff and authority over Plaintiff.

19. From approximately 1973 to 1975, when Plaintiff was approximately 8 to 9 years old, Cullen engaged in unpermitted sexual contact with Plaintiff.

COUNT I: NEGLIGENCE

20. Plaintiff realleges paragraphs 1-19 above.

21. Each Defendant owed Plaintiff a duty of reasonable care to protect the Plaintiff from injury.

22. Each Defendant owed Plaintiff a duty of care because each Defendant had a special relationship with Plaintiff.

23. Defendants also had a duty arising from the special relationship that existed with Plaintiff, Plaintiff's parents, and other parents of young, innocent, vulnerable children in the Diocese of Brooklyn to properly train and supervise its employees. This

special relationship arose because of the high degree of vulnerability of the children entrusted to their care. As a result of this high degree of vulnerability and risk of sexual abuse inherent in such a special relationship, Defendants had a duty to establish measures of protection not necessary for persons who are older and better able to safeguard themselves.

24. Each Defendant owed Plaintiff a duty to protect Plaintiff from harm because each Defendant also had a special relationship with Cullen.

25. Defendants owed Plaintiff a duty of reasonable care because they solicited youth and parents for participation in their youth programs; encouraged youth and parents to have the youth participate in their programs; undertook custody of minor children, including Plaintiff; promoted their facilities and programs as being safe for children; held their agents, including Cullen, out as safe to work with children; encouraged parents and children to spend time with their agents; and/or encouraged their agents, including Cullen, to spend time with, interact with, and recruit children.

26. By accepting custody of the minor Plaintiff, Defendants established an *in loco parentis* relationship with Plaintiff and in so doing, owed Plaintiff a duty to protect Plaintiff from injury. Further, Defendants entered into a fiduciary relationship with Plaintiff by undertaking the custody, supervision of, and/or care of the minor Plaintiff. As a result of Plaintiff being a minor, and by Defendants undertaking the care and guidance of the Plaintiff, Defendants also held a position of empowerment over Plaintiff. Further, Defendants, by holding themselves out as being able to provide a safe environment for children, solicited and/or accepted this position of empowerment.

Defendants, through its employees, exploited this power over Plaintiff and, thereby, put the minor Plaintiff at risk for sexual abuse.

27. By establishing and/or operating the Diocese and St. Thomas Aquinas, accepting the minor Plaintiff as a participant in their programs, holding their facilities and programs out to be a safe environment for Plaintiff, accepting custody of the minor Plaintiff *in loco parentis*, and by establishing a fiduciary relationship with Plaintiff, Defendants entered into an express and/or implied duty to properly supervise Plaintiff and provide a reasonably safe environment for children, who participated in their programs. Defendants owed Plaintiff a duty to properly supervise Plaintiff to prevent harm from foreseeable dangers. Defendants had the duty to exercise the same degree of care over minors under their control as a reasonably prudent person would have exercised under similar circumstances.

28. By establishing and operating the Diocese and St. Thomas Aquinas, which offered educational programs to children and which may have included a school, and by accepting the enrollment and participation of the minor Plaintiff as a participant in those educational programs, Defendants owed Plaintiff a duty to properly supervise Plaintiff to prevent harm from generally foreseeable dangers.

29. Each Defendant owed Plaintiff a duty to protect Plaintiff from harm because Defendants invited Plaintiff onto their property and Cullen posed a dangerous condition on Defendants' property.

30. Each Defendant breached its duties to Plaintiff. Defendants failed to use ordinary care in determining whether their facilities were safe and/or determining

whether they had sufficient information to represent their facilities as safe. Defendants' breach of their duties include, but are not limited to: failure to protect Plaintiff from a known danger, failure to have sufficient policies and procedures in place to prevent child sex abuse, failure to properly implement policies and procedures to prevent child sex abuse, failure to take reasonable measures to ensure that policies and procedures to prevent child sex abuse were working, failure to adequately inform families and children of the risks of child sex abuse, failure to investigate risks of child molestation, failure to properly train the employees at institutions and programs within Defendants' geographical confines, failure to train the minors within Defendants' geographical confines about the dangers of sexual abuse by clergy, failure to have any outside agency test their safety procedures, failure to protect the children in their programs from child sex abuse, failure to adhere to the applicable standard of care for child safety, failure to investigate the amount and type of information necessary to represent the institutions, programs, leaders and people as safe, failure to train their employees properly to identify signs of child molestation by fellow employees, failure by relying upon mental health professionals, and/or failure by relying on people who claimed that they could treat child molesters.

31. Defendants also breached their duty to Plaintiff by failing to warn Plaintiff and Plaintiff's family of the risk that Cullen posed and the risks of child sexual abuse in Catholic institutions. They also failed to warn them about any of the knowledge that Defendants had about child sexual abuse.

32. Defendants additionally violated a legal duty by failing to report known

and/or suspected abuse of children by Cullen and/or its other agents to the police and law enforcement.

33. Prior to the sexual abuse of Plaintiff, Defendants learned or should have learned that Cullen was not fit to work with children. Defendants, by and through their agents, servants and/or employees, became aware, or should have become aware of Cullen's propensity to commit sexual abuse and of the risk to Plaintiff's safety. At the very least, Defendants knew or should have known that they did not have sufficient information about whether or not their leaders and people working at St. Thomas Aquinas and other Catholic institutions within the Diocese of Brooklyn were safe.

34. Defendants knew or should have known that there was a risk of child sex abuse for children participating in Catholic programs and activities within the Diocese. At the very least, Defendants knew or should have known that they did not have sufficient information about whether or not there was a risk of child sex abuse for children participating in Catholic programs and activities within the Diocese.

35. Defendants knew or should have known that Defendants had numerous agents who had sexually molested children. Defendants knew or should have known that child molesters have a high rate of recidivism. They knew or should have known that there was a specific danger of child sex abuse for children participating in their youth programs.

36. However, despite this knowledge, Defendants negligently deemed that Cullen was fit to work with children; and/or that any previous suitability problems Cullen had were fixed and cured; and/or that Cullen would not sexually molest children;

and/or that Cullen would not injure children.

37. Defendants' actions created a foreseeable risk of harm to Plaintiff. As a vulnerable child participating in the programs and activities Defendants offered to minors, Plaintiff was a foreseeable victim. Additionally, as a vulnerable child who Cullen had access to through Defendants' facilities and programs, Plaintiff was a foreseeable victim.

38. As a direct result of the foregoing, Plaintiff sustained physical, emotional, and psychological injuries, along with pain and suffering. The sexual abuse and resulting injuries to Plaintiff were caused solely and wholly by reason of the negligent failures of Defendants.

COUNT II: NEGLIGENT TRAINING AND SUPERVISION OF EMPLOYEES

39. Plaintiff realleges paragraphs 1-38 above.

40. At all times material, Cullen was employed by Defendants and was under each Defendant's direct supervision, employ, and control when he committed the wrongful acts alleged herein. Cullen engaged in the wrongful conduct while acting in the course and scope of his employment with Defendants and/or accomplished the sexual abuse by virtue of his job-created authority.

41. Defendants had a duty, arising from their employment of Cullen, to ensure that he did not sexually molest children.

42. Further, Defendants owed a duty to train and educate employees and administrators and establish adequate and effective policies and procedures calculated to detect, prevent, and address inappropriate behavior and conduct between adults and

children.

43. Defendants were negligent in the training, supervision, and instruction of their employees. Defendants failed to timely and properly educate, train, supervise, and/or monitor their agents or employees with regard to policies and procedures that should be followed when sexual abuse of a child is suspected or observed. Defendants were additionally negligent in failing to supervise, monitor, chaperone, and/or investigate Cullen and/or in failing to create, institute, and/or enforce rules, policies, procedures, and/or regulations to prevent Cullen's sexual abuse of Plaintiff. In failing to properly supervise Cullen, and in failing to establish such training procedures for employees and administrators, Defendants failed to exercise the degree of care that a reasonably prudent person would have exercised under similar circumstances.

44. As a direct result of the foregoing, Plaintiff sustained physical, emotional, and psychological injuries, along with pain and suffering. The sexual abuse and resulting injuries to Plaintiff were caused solely and wholly by reason of the negligent failures of Defendants in the training and/or supervising of its employees.

COUNT III: NEGLIGENT RETENTION OF EMPLOYEES

45. Plaintiff realleges paragraphs 1-44 above.

46. At all times material, Cullen was employed by Defendants and was under each Defendant's direct supervision, employ, and control when he committed the wrongful acts alleged herein.

47. Defendants negligently retained Cullen with knowledge of Cullen's propensity for the type of behavior which resulted in Plaintiff's injuries in this action.

Defendants failed to investigate Cullen's past and/or current history of sexual abuse and, through the exercise of reasonable diligence, should have known of Cullen's propensity for child sexual abuse. Defendants should have made an appropriate investigation of Cullen and failed to do so. An appropriate investigation would have revealed the unsuitability of Cullen for continued employment and it was unreasonable for Defendants to retain Cullen in light of the information they knew or should have known.

48. Defendants negligently retained Cullen in a position where he had access to children and could foreseeably cause harm which Plaintiff would not have been subjected to had Defendants taken reasonable care.

49. In failing to timely remove Cullen from working with children or terminate the employment of Cullen, Defendants failed to exercise the degree of care that a reasonably prudent person would have exercised under similar circumstances.

50. As a direct result of the foregoing, Plaintiff sustained physical, emotional, and psychological injuries, along with pain and suffering. The sexual abuse and resulting injuries to Plaintiff were caused solely and wholly by reason of the negligent failures of Defendants in the retention of its employees.

PRAYER FOR RELIEF

WHEREFORE, based on the foregoing causes of action, Plaintiff prays for judgment against Defendants in an amount that will fully and fairly compensate Plaintiff for Plaintiff's injuries and damages and for any other relief the Court deems appropriate. The amount of damages sought in this Complaint exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

JURY DEMAND

Plaintiff demands a trial by jury of all issues so triable. Pursuant to §4 of the New York Child Victims Act, Plaintiff is entitled to a trial preference.

Dated: September 9, 2019
New York, New York

/s/ Nahid A. Shaikh
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